

FIRST REGULAR SESSION

# SENATE BILL NO. 453

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 6, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1252S.04I

## AN ACT

To repeal sections 323.010, 323.020, 323.060, 323.075, 323.080, 323.090, and 323.110, RSMo, and to enact in lieu thereof eleven new sections relating to the Missouri propane safety act, with a penalty provision.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 323.010, 323.020, 323.060, 323.075, 323.080, 323.090, and 323.110, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 323.005, 323.010, 323.020, 323.025, 323.060, 323.075, 323.080, 323.090, 323.105, 323.110, and 323.115, to read as follows:

**323.005. This chapter may be cited as the "Missouri Propane Safety Act".**

323.010. For the purposes of this chapter, the following words and phrases shall mean:

(1) "Affiliated industry", any person or firm engaged in the manufacturing, assembling, and marketing of appliances, containers, and products used in the propane industry, the interstate or intrastate transportation or storage of propane, the installation or design of propane piping systems, or other such affiliation with the commercial, residential, or agricultural use of propane by consumers in Missouri;

(2) "Commission", the Missouri propane gas commission;

(3) "Compressed natural gas" (CNG), a mixture of hydrocarbon gases and vapors, consisting principally of methane in gaseous form that has been compressed for use as a vehicular fuel;

(4) "Director", the executive director of the commission;

[(2)] (5) "Dispensing station", a system of compressors, safety devices,

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

15 cylinders, piping, fittings, valves, regulators, gauges, relief devices, vents,  
16 installation fixtures and other compressed natural gas equipment intended for  
17 use in conjunction with motor vehicle fueling by compressed natural gas but does  
18 not include a natural gas pipeline located upstream of the inlet of the compressor;

19 **[(3)] (6) "Liquefied petroleum gas", any material which is composed**  
20 **predominantly of any of the following hydrocarbons, or mixtures of the same:**  
21 **Propane, propylene, butanes (normal butane or isobutane), and butylenes;**

22 **[(4)] (7) "Motor vehicle", all vehicles except those operated on rails which**  
23 **are propelled by internal combustion engines and are used or designed for use in**  
24 **the transportation of a person or persons or property;**

25 **(8) "Person", any individual, group of individuals, partnership,**  
26 **association, cooperative, corporation, or any other entity;**

27 **(9) "Producer", the owner of the propane at the time it is**  
28 **recovered at a manufacturing facility, irrespective of the state where**  
29 **production occurs;**

30 **(10) "Propane", propane, butane, mixtures of propane and butane,**  
31 **and liquefied petroleum gas, as defined by the National Fire Protection**  
32 **Association Standard 58 for the storage and handling of liquefied**  
33 **petroleum gases;**

34 **(11) "Public member", a member of the commission who is**  
35 **knowledgeable about and who has significant experience using**  
36 **odorized propane;**

37 **(12) "Qualified industry organization", the Missouri Propane Gas**  
38 **Association, the Missouri Propane Education and Research Council, or**  
39 **a successor association;**

40 **(13) "Retail marketer", a business engaged primarily in selling**  
41 **propane gas, its appliances, and equipment to the ultimate consumer**  
42 **or to retail propane dispensers;**

43 **(14) "Wholesaler" or "reseller", a seller of propane who is not a**  
44 **producer and who does not sell propane to the ultimate consumer.**

323.020. 1. The [director of the department of agriculture] **commission**  
2 shall make, promulgate and enforce regulations setting forth general standards  
3 covering the design, construction, location, installation and operation of  
4 equipment for storing, handling, transporting by tank truck, tank trailer, and  
5 utilizing liquefied petroleum gases and specifying the odorization of such gases  
6 and the degree thereof. The regulations shall be such as are reasonably

7 necessary for the protection of the health, welfare and safety of the public and  
8 persons using such materials, and shall be in substantial conformity with the  
9 generally accepted standards of safety concerning the same subject matter. Such  
10 regulations shall be adopted by the [director of the department of agriculture]  
11 **commission** pursuant to chapter 536, RSMo. Any rule or portion of a rule, as  
12 that term is defined in section 536.010, RSMo, that is promulgated under the  
13 authority of this chapter, shall become effective only if the [agency] **authority**  
14 has fully complied with all of the requirements of chapter 536, RSMo, including  
15 but not limited to section 536.028, RSMo, if applicable, after January 1, 1999. All  
16 rulemaking authority delegated prior to January 1, 1999, is of no force and effect  
17 and repealed as of January 1, 1999, however nothing in this act shall be  
18 interpreted to repeal or affect the validity of any rule adopted and promulgated  
19 prior to January 1, 1999. If the provisions of section 536.028, RSMo, apply, the  
20 provisions of this section are nonseverable and if any of the powers vested with  
21 the general assembly pursuant to section 536.028, RSMo, to review, to delay the  
22 effective date, or to disapprove and annul a rule or portion of a rule are held  
23 unconstitutional or invalid, the purported grant of rulemaking authority and any  
24 rule so proposed and contained in the order of rulemaking shall be invalid and  
25 void, except that nothing in this act shall affect the validity of any rule adopted  
26 and promulgated prior to January 1, 1999.

27 2. Except as specifically provided in subsection 1 of section 323.060,  
28 regulations in substantial conformity with the published standards of the  
29 National Board of Fire Underwriters for the design, installation and construction  
30 of containers and pertinent equipment for the storage and handling of liquefied  
31 petroleum gases as recommended by the National Fire Protection Association  
32 shall be deemed to be in substantial conformity with the generally accepted  
33 standards of safety concerning the same subject matter.

**323.025. 1. There is hereby created within the department of**  
2 **agriculture, the "Missouri Propane Gas Commission", which shall**  
3 **constitute a body corporate and politic, an independent instrumentality**  
4 **exercising essential public functions. The commission shall ensure the**  
5 **administration and enforcement of this chapter and all rules and**  
6 **regulations and orders promulgated thereunder. The powers of the**  
7 **commission shall be vested in seven commissioners, who shall be**  
8 **residents of this state, to be appointed by the governor, by and with the**  
9 **advice and consent of the senate from a list of candidates provided by**

10 a qualified industry organization. The commission shall consist of one  
11 member representing multi-state retail marketers of propane, one  
12 member from a county of the third classification representing retail  
13 marketers of propane, one member representing wholesalers or  
14 resellers of propane, one member representing an affiliated industry,  
15 one member representing the department of agriculture, one member  
16 representing the department of natural resources, and one public  
17 member. The commissioners annually shall elect from among their  
18 number a chairman and a vice chairman, and such other officers as  
19 they may deem necessary.

20 2. The commissioners shall serve five-year terms, with each term  
21 beginning July first and ending on June thirtieth. However, of the  
22 commissioners first appointed, one shall be appointed for a term of two  
23 years, one shall be appointed for a term of three years, two shall be  
24 appointed for a term of four years, and three shall be appointed for a  
25 term of five years. Each commissioner appointed thereafter shall be  
26 appointed for a term ending five years from the date of expiration of  
27 the term for which his predecessor was appointed. A person appointed  
28 to fill a vacancy prior to the expiration of such a term shall be  
29 appointed for the remainder of the term. No commissioner appointed  
30 by the governor under this section shall serve more than one full  
31 term. For those commissioners first appointed, if such commissioner  
32 serves a term less than five years, each shall be eligible to serve one  
33 full five-year term. Each commissioner shall hold office for the term of  
34 such appointment and until such successor has been appointed and  
35 qualified.

36 3. Other than the public member, commission members shall be  
37 full-time employees or owners of businesses in the industry or the  
38 agency they represent.

39 4. Notwithstanding the provisions of any other law to the  
40 contrary:

41 (1) No officer or employee of this state shall be deemed to have  
42 forfeited or shall forfeit such office or employment by reason of his  
43 acceptance of membership on the commission or such service to the  
44 commission;

45 (2) It shall not constitute a conflict of interest for a director,  
46 officer, or employee of any company selling propane at retail or

47 wholesale, or engaged in the manufacture, sale, or distribution of  
48 propane-use equipment, or in the transportation, storage, or marketing  
49 of propane, or any other firm, person, or corporation, to serve as a  
50 member of the commission, provided such trustee, director, officer, or  
51 employee shall abstain from deliberation, action, and vote by the  
52 commission in each instance where the business affiliation or public  
53 office association of any such trustee, director, officer, or employee is  
54 involved.

55         5. Commissioners shall receive no compensation for the  
56 performance of their duties under this section, but each commissioner  
57 shall be reimbursed from the funds of the commission for his or her  
58 actual and necessary expenses incurred in carrying out his or her  
59 official duties.

60         6. Meetings shall be held at the call of the chairman or whenever  
61 two commissioners so request. Four commissioners of the commission  
62 shall constitute a quorum, and any action taken by the commission  
63 under the provisions of this chapter may be authorized by resolution  
64 approved by a majority, but not less than three of the commissioners  
65 present at any regular or special meeting. No vacancy in the  
66 membership of the commission shall impair the right of a quorum to  
67 exercise all the rights and perform all the duties of the commission.

68         7. The commissioners shall employ an executive director. The  
69 executive director also shall serve as the secretary for the commission  
70 and shall administer, manage, and direct the affairs and business of the  
71 commission, subject to the policies, control, and direction of the  
72 commissioners. The commission may employ technical experts and  
73 such other officers, agents, and employees as deemed necessary, and  
74 may fix their qualifications, duties, and compensation.

75         8. The secretary shall keep a record of the proceedings of the  
76 commission and shall be custodian of all books, documents, and papers  
77 filed with the commission and of its minute book and seal. The  
78 secretary shall have the authority to cause to be made copies of all  
79 minutes and other records and documents of the commission and to  
80 give certificates, under the seal of the commission, to the effect that  
81 such copies are true copies, and all persons dealing with the  
82 commission may rely upon such certificates. Resolutions of the persons  
83 dealing with the commission need not be published or posted unless the

84 commission shall so direct.

85           9. Before entering into his or her duties, each commissioner of  
86 the commission shall execute a surety bond for fifty thousand dollars,  
87 and the director shall execute a surety bond for one hundred thousand  
88 dollars or, in lieu thereof, the chairman of the commission shall execute  
89 a blanket bond covering all members, the director, and the employees  
90 or other officers of the commission. Each surety bond shall be  
91 conditioned on the faithful performance of the duties of the office or  
92 offices covered, shall be executed by a surety company authorized to  
93 transact business in this state as surety, shall be approved by the  
94 attorney general, and shall be filed in the office of the secretary of  
95 state. The cost of each such bond shall be paid by the commission.

96           10. At the beginning of each fiscal year, the commission shall  
97 prepare and submit for public comment a budget plan, including the  
98 probable costs of all programs, projects, and contracts and a  
99 recommended rate of assessment as may be necessary to cover such  
100 costs. Publication of the proposed budget in the Missouri Register for  
101 at least thirty days shall constitute appropriate public notice. The  
102 commission shall approve or modify the budget following the public  
103 comment period.

104           11. The commission shall, following the close of each fiscal year,  
105 submit an annual report of its activities for the preceding year to the  
106 department of agriculture, the governor, and the general  
107 assembly. Each report shall set forth a complete operating and  
108 financial statement for the commission during the fiscal year it covers.  
109 At least once in each year, an independent certified public accountant  
110 shall audit the books and accounts of the commission.

111           12. The commission shall have the power necessary to:

- 112           (1) Sue and be sued in its own name;  
113           (2) Have an official seal and alter the same at pleasure;  
114           (3) Have perpetual succession;  
115           (4) Maintain an office at such place or places within this state as  
116 the commission may designate;  
117           (5) Conduct hearings and mediate disputes arising from the  
118 enforcement of this chapter;  
119           (6) Disperse funds for its lawful activities and fix salaries and  
120 wages of its employees; and

121           (7) Exercise all powers necessary or convenient to accomplish its  
122 purposes.

123           13. The commission shall have the following duties:

124           (1) Develop comprehensive plans and programs for the  
125 prevention, control and abatement of propane-related accidents in  
126 Missouri;

127           (2) Advise, consult, and cooperate with other agencies of the  
128 state, the federal government, other states, and interstate agencies, as  
129 well as with affected groups, political subdivisions, and industries in  
130 furtherance of the purposes of this chapter;

131           (3) Accept gifts, contributions, donations, loans and grants from  
132 the federal government and from other sources, public or private, for  
133 carrying out any of its functions. Such funds shall not be expended for  
134 other than the purposes for which provided;

135           (4) Exercise general supervision of the administration and  
136 enforcement of this chapter and all rules, regulations, and orders  
137 promulgated hereunder;

138           (5) Suspend any registration filed under this chapter granted to  
139 persons or companies doing business under the requirements of this  
140 chapter, if such registrant is in violation of any provision of this  
141 chapter;

142           (6) Represent the state of Missouri in all matters pertaining to  
143 this chapter, including negotiation of interstate compact agreements;

144           (7) To do any act necessary or convenient to the exercise of the  
145 powers granted by or reasonably implied from the provisions of this  
146 chapter.

147           14. The director may make such investigations as the director  
148 deems necessary to carry out effectively the director's responsibilities  
149 under this chapter or to determine whether a person has engaged or is  
150 engaging in acts or practices that constitute a violation of any  
151 provision of this chapter or of any regulation or plan issued under this  
152 chapter. For the purpose of any investigation, the director is  
153 empowered to administer oaths and affirmations, subpoena witnesses,  
154 compel their attendance, take evidence, and require the production of  
155 books, papers, and documents which are relevant to the inquiry. Such  
156 attendance of witnesses and the production of any such records may be  
157 required from any place in this state. In case of contumacy by or

158 refusal to obey a subpoena issued to any person, the director may seek  
159 enforcement thereof in the circuit court of proper venue.

160       15. Records and documents submitted by propane companies to  
161 the Missouri propane gas commission relating to business operations,  
162 such as total gallons sold, number of employees, or equipment  
163 inventories, shall be deemed a closed record as such term is defined in  
164 section 610.010, RSMo, may be discussed in a meeting that has been  
165 closed under section 610.022, RSMo, and shall not be subject to the  
166 provisions of sections 109.200 to 109.310, RSMo.

167       16. The Missouri propane gas commission hereby preempts the  
168 field of regulating the inspection of and providing specifications for  
169 propane as regulated in this section and subsequent standards,  
170 regulations, and codes as adopted by the state. It shall be unlawful for  
171 any political subdivision to impose by ordinance, order, or regulation  
172 any restriction on the use, sale, installation, maintenance, or repair of  
173 propane as regulated by this chapter.

174       17. A commissioner shall be removed from office by the governor  
175 for misfeasance, malfeasance, or willful neglect of duty or other cause  
176 after notice and public hearing, unless such notice or hearing shall be  
177 expressly waived in writing.

178       18. The director or any designated employee shall have free  
179 access, during reasonable hours, to any premises in the state where an  
180 installation covered by this chapter is being constructed, or is being  
181 installed, for the purpose of ascertaining whether said installation is  
182 being constructed and installed in accordance with the applicable  
183 provisions.

323.060. 1. No person or company shall engage in this state in the  
2 business of selling at retail of liquefied petroleum gas or in the business of  
3 handling or transportation of liquefied petroleum gas over the highways of this  
4 state without having first registered with the [director of the department of  
5 agriculture] **commission**. Registration must be in the appropriate class as  
6 determined by the director.

7       2. No person or company shall engage in this state in the business of  
8 installing, modifying, repairing, or servicing equipment and appliances for use  
9 with liquefied petroleum gas without having first registered with the [director of  
10 the department of agriculture] **commission**. Registration must be in the  
11 appropriate classes as determined by the director.



12           3. Nonresidents of the state of Missouri desiring to engage in the business  
13 of distribution of liquefied petroleum gases at retail, or the business of installing,  
14 repairing or servicing equipment and appliances for use of liquefied petroleum  
15 gases, shall comply with sections [323.010] **323.005** to 323.110 and rules and  
16 regulations promulgated hereunder.

17           4. No person registered pursuant to this section and engaged in this state  
18 in the business of selling at retail of liquefied petroleum gas or in the business  
19 of handling or transportation of liquefied petroleum gas over the highways of this  
20 state shall be liable for actual or punitive civil damages for injury to persons or  
21 property that result from any occurrence caused by the installation, modification,  
22 repair, or servicing of equipment and appliances for use with liquefied petroleum  
23 gas by any other person unless such registered person had received written  
24 notification or had other actual knowledge of such installation, modification,  
25 repair, or servicing of equipment and appliances and failed to inspect such  
26 installation, modification, repair, or servicing of equipment and appliances within  
27 thirty days after receipt of such notice or actual knowledge.

28           5. Nothing in this section is intended to limit the liability of any person  
29 for any damages that arise directly from the gross negligence or willful or wanton  
30 acts of such person.

31           6. All utility operations of public utility companies subject to the safety  
32 jurisdiction of the public service commission are exempt from the provisions of  
33 this section.

34           7. Persons who only sell liquefied petroleum gas in containers having a  
35 capacity of fifty pounds or less that have been filled by another person registered  
36 under this chapter are exempt from the provisions of this section.

          323.075. 1. Every person required to be registered under subsection 1 of  
2 section 323.060 shall demonstrate financial responsibility for compensating third  
3 parties for bodily injury and property damage caused by the release of liquefied  
4 petroleum gas. The minimum amount of financial responsibility shall be one  
5 million dollars per occurrence with an annual aggregate of two million dollars.

6           2. A person may demonstrate financial responsibility required in  
7 subsection 1 of this section either by self insurance or by being insured in the  
8 manner set forth in this section.

9           3. A registrant may demonstrate financial responsibility by obtaining  
10 liability insurance in the required amounts as an endorsement to an existing  
11 policy or as a separate policy issued by an insurance company authorized by the

12 department of insurance to transact the business of insurance in the state of  
13 Missouri. The endorsement or policy shall include a requirement that the  
14 insurance company deliver a copy of any final notice of cancellation to the  
15 [department of agriculture] **commission** at the same time such a notice is  
16 provided to the insured. A copy of the certificate of insurance evidencing such  
17 coverage shall accompany any original application. The original insurance policy,  
18 any relevant endorsements, and the certificate of insurance must be made  
19 available upon request for examination and copying by the [department of  
20 agriculture] **commission**.

21 4. The [director] **commission** may promulgate regulations governing  
22 acceptable forms of self insurance.

23 5. Any rule or portion of a rule, as that term is defined in section 536.010,  
24 RSMo, that is created under the authority delegated in this section shall become  
25 effective only if it complies with and is subject to all of the provisions of chapter  
26 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter  
27 536, RSMo, are nonseverable and if any of the powers vested with the general  
28 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,  
29 or to disapprove and annul a rule are subsequently held unconstitutional, then  
30 the grant of rulemaking authority and any rule proposed or adopted after August  
31 28, 2005, shall be invalid and void.

32 [6. The provisions of this section shall become effective on January 1,  
33 2006.]

323.080. 1. The [director of the department of agriculture] **commission**  
2 may suspend any registration filed hereunder if the registrant violates or fails to  
3 comply with any provision of this chapter or the rules and regulations  
4 promulgated hereunder until the violation or failure is corrected. It is unlawful  
5 to perform any of the acts for which registration is required while a suspension  
6 is in effect.

7 2. Before suspension of any registration, written notice shall be given to  
8 the registrant setting forth the action contemplated and the reasons  
9 therefor. The notice shall state the time and place for a hearing on the  
10 contemplated action and shall be sent by registered mail to the registrant at least  
11 ten days before the hearing. At the hearing the registrant may present evidence  
12 as he deems fit. Upon suspension of a registration, notice shall be sent by  
13 registered mail to the last known address of the registrant.

323.090. Any person who is aggrieved by a suspension order of the

2 [director of the department of agriculture] **commission** may appeal from the  
3 suspension order within ten days after the mailing of the notice of  
4 suspension. The appeal shall be to the circuit court of the county in which such  
5 person resides or has his principal place of business. The circuit court shall  
6 review the record, permit the presentation of any additional evidence as the  
7 parties thereto may desire, determine whether the evidence supports the order  
8 of suspension and enter a judgment sustaining or overruling the suspension  
9 order.

**323.105. 1. The fee for the inspections of propane installations**  
2 **deemed necessary under this chapter shall be assessed by the Missouri**  
3 **propane gas commission at a rate per odorized gallon that will**  
4 **approximately yield revenue equal to the expenses of administering**  
5 **this chapter.**

6 **2. The commission shall set the initial assessment at no greater**  
7 **than one-tenth of one cent per gallon. Thereafter, annual assessments**  
8 **shall be sufficient to cover the costs of the plans and programs of the**  
9 **commission. The assessment shall not be greater than twenty-five**  
10 **hundredths of one cent per gallon of odorized propane. The assessment**  
11 **may not be raised by more than one-tenth of one cent per gallon**  
12 **annually.**

13 **3. The owner of propane immediately prior to odorization in this**  
14 **state or the owner of odorized propane at the time of import into this**  
15 **state shall be responsible for the payment of the assessment on the**  
16 **volume of propane at the time of import or odorization, whichever is**  
17 **later. Assessments shall be remitted to the commission on a monthly**  
18 **basis by the twenty-fifth of the month following the month of**  
19 **collection. Nonodorized propane shall not be subject to assessment**  
20 **until odorized. For purposes of collection, all propane either odorized**  
21 **at terminal locations in Missouri for delivery to either in-state storage**  
22 **locations or propane odorized at terminal locations outside Missouri**  
23 **and delivered to Missouri as identified on a bill of lading, shall be**  
24 **considered as assessable.**

25 **4. The commission may, by rule, establish an alternative means**  
26 **to collect the assessment if another means is found to be more efficient**  
27 **and effective. The commission may by rule establish a late payment**  
28 **charge and rate of interest to be imposed on any person who fails to**  
29 **remit any amount due under this chapter.**

30           5. The commission shall set fees for permits, licenses, and  
31 certificates required by this chapter. Fees shall be determined by the  
32 commission to provide sufficient funds for the operation of the  
33 commission and its programs and shall be set by rule promulgated in  
34 accordance with the provisions of section 323.020. The commission may  
35 alter the fee schedule once every two years. Any funds collected under  
36 this section shall be deposited in the propane inspection fund.

37           6. There is hereby created the "Propane Inspection Fund", which  
38 shall consist of all funds collected under this section. The fund shall be  
39 used solely by the commission for the administration and enforcement  
40 of this chapter. Notwithstanding the provisions of section 33.080,  
41 RSMo, to the contrary, any moneys remaining in the fund at the end of  
42 the biennium shall not revert to the credit of the general revenue  
43 fund. Any interest and moneys earned on investments of moneys in the  
44 fund shall be credited to the fund.

45           7. No funds collected by the commission shall be used in any  
46 manner for influencing legislation or for campaign contributions,  
47 except that the commission may recommend to the director changes in  
48 this act or other statutes that would further the purpose of the  
49 commission.

          323.110. 1. Any person found in violation of any provision of sections  
2 [323.010] **323.005** to 323.210 shall be deemed guilty of a class A  
3 misdemeanor. The prosecutor of each county in which a violation occurs may  
4 bring an action hereunder. But if a prosecutor declines to bring such action, then  
5 the attorney general may bring an action instead, and in so doing shall have all  
6 the powers and jurisdiction of such prosecutor.

7           2. Any person who is found, upon investigation by the [department of  
8 agriculture] **commission**, to be in possible violation of sections [323.010]  
9 **323.005** to 323.210 shall be notified by certified mail of the facts constituting  
10 such violation, and shall be afforded an opportunity by the [director]  
11 **commission** to explain such facts at an informal hearing to be conducted within  
12 fourteen days of such notification. In the event that such person fails to timely  
13 respond to such notification or upon unsuccessful resolution of any issues relating  
14 to an alleged violation, such person may be summoned to a formal administrative  
15 hearing before [a department of agriculture hearing officer] **the**  
16 **commission**. Said hearing shall be conducted in conformance with chapter 536,

17 RSMo. If any person is found to have committed one or more violations of  
18 sections [323.010] **323.005** to 323.210, such person may be ordered to cease and  
19 desist from such violation, and the order shall be enforceable in any circuit court  
20 of competent jurisdiction, and, in addition, the person may be required to pay a  
21 penalty of not more than five hundred dollars per violation and five hundred  
22 dollars for each day such violation continues. Any party to such hearing  
23 aggrieved by a determination of a hearing officer may, in accordance with chapter  
24 536, RSMo, appeal to the circuit court of the county in which such party resides,  
25 or if the party is the state, in Cole County.

**323.115. 1. Violations of this chapter may be referred to the  
2 attorney general for appropriate action, except that nothing shall be  
3 construed as requiring the commission to refer to the attorney general  
4 violations of this chapter whenever the commission believes that the  
5 administration and enforcement of the regulations would be served  
6 adequately by administrative action under subsection 2 of this section  
7 or suitable written notice or warning to any person committing the  
8 violations.**

**9 2. Any person who fails or refuses to pay, collect, or remit any  
10 assessment or fee required of the person by this chapter may be  
11 assessed a civil penalty by the commission of not less than five hundred  
12 dollars nor more than five thousand dollars for each violation. Each  
13 violation shall be a separate offense. In addition, or in lieu of such  
14 civil penalty, the commission may issue an order requiring the person  
15 to cease-and-desist from continuing the violation. No penalty shall be  
16 assessed nor a cease-and-desist order issued unless the person is given  
17 notice and opportunity for a hearing before the commission with  
18 respect to the violation. The order of the commission assessing a  
19 penalty or imposing a cease-and-desist order shall be final and  
20 conclusive unless the person affected by the order files a petition for  
21 review under chapter 536, RSMo. Any person who fails to obey a cease-  
22 and-desist order after it has become final shall be subject to a civil  
23 penalty assessed by the commission, after an opportunity for hearing  
24 before the commission, of not more than five hundred dollars for each  
25 offense. Each day that the failure continues shall be deemed a separate  
26 offense. If any person fails to pay an assessment of a civil penalty after  
27 it has become a final order, the commission shall refer the matter to the  
28 attorney general for recovery of the amount assessed in any**

29 appropriate circuit court of the state. In such action, the validity and  
30 appropriateness of the final order imposing the civil penalty shall not  
31 be subject to review.

✓

Unofficial

Bill

Copy